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OFFICE OF PETITIONS

In re Application of :
Aronson, et al. :
Application No. 10/629,725 :
Filed: July 28, 2003 :
Attorney Docket No. 15436.247.2.1.2: DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. §1.53(e)", filed August 12, 2004, which is being treated as a petition to accord the above-identified application a filing date of July 28, 2003, with page 45 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 28, 2003. However, on June 15, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of NonProvisional Application." Applicants were notified that the application papers had been accorded a filing date of July 28, 2003; however, the oath or declaration was omitted. In addition, applicants were notified that page 45 of the specification appeared to have been omitted.

In response, applicants filed a 37 CFR 1.63 declaration, together with the instant petition. Accompanying the petition was a copy of page 45 of the specification. Applicants maintain that the application as originally filed included page 45. In support thereof, applicants submitted a postcard receipt identifying this application, itemizing "Utility Patent Application Transmittal

(4 pgs, in triplicate); Patent Application (4 pgs); Drawings (33 pgs); PTO-2038 in the amount of \$1,200.00 (1 pg); Certificate of Express Mailing Label EV 302 232 473 US; and postcard" as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 28, 2003, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicants are reminded to more specifically itemize their applications on future postcards (e.g. number of pages of specification, number of pages of claims, etc.).

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 23-3178.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 28, 2003, using the application papers received in the Office on that date and page 45 of the specification as resupplied on petition filed August 12, 2004. Applicants will receive appropriate notifications and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions